

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 479

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO INCOME TAXATION; TO PROVIDE A SHORT TITLE; TO PROVIDE LEGISLATIVE INTENT; AMENDING TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 47, TITLE 63, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE A VENTURE CAPITAL TAX CREDIT, TO PROVIDE LIMITATIONS AND OTHER PROVISIONS ON CREDITS AGAINST INCOME TAXES, TO PROVIDE RECAPTURE AND TO PROVIDE FOR ADMINISTRATION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION AND A SUNSET DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. SHORT TITLE. This act may be known and shall be cited as "The Idaho Small Business Venture Capital Investment and Jobs Act."

SECTION 2. LEGISLATIVE INTENT. The Legislature finds that the economy of the state is enhanced when venture capital is available to start-up small businesses. Therefore, it is the intent of the Legislature to provide for the creation of a Venture Capital Tax Credit to promote the availability of institutional funds for venture capital in the state for small businesses.

SECTION 3. That Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 47, Title 63, Idaho Code, and to read as follows:

CHAPTER 47

VENTURE CAPITAL FOR SMALL BUSINESS

63-4701. DEFINITIONS. As used in this chapter:

(1) "Commission" means the Idaho state tax commission.

(2) "Equity capital" means capital invested in common or preferred stock, royalty rights, limited partnership interests, limited liability company interests, and any other securities or rights that evidence ownership in private business.

(3) "Near equity capital" means capital invested in unsecured, underscored, subordinated or convertible loans or debt securities.

(4) "Person" means an individual, corporation, partnership or other lawfully organized entity.

(5) "Venture capital tax credit" means a tax credit that is allowed or transferred pursuant to this chapter.

63-4702. VENTURE CAPITAL TAX CREDIT. There shall be allowable as a credit against taxes imposed pursuant to the Idaho income tax act the venture capital tax credit. The amount of the venture capital tax credit shall be fifty percent (50%) of the Idaho taxable income earned that is not interest income from venture capital provided to Idaho businesses of twenty (20) employees or less. The venture capital tax credit shall be

freely transferable between taxpayers. The venture capital tax credit shall be available to taxpayers who provide equity capital to new business with twenty (20) employees or less. The venture capital tax credits allowed or transferred pursuant to this chapter shall not be considered a security under Idaho law.

63-4703. LIMITATIONS AND OTHER PROVISIONS ON CREDITS AGAINST INCOME TAXES. (1) In addition to other needed rules, the state tax commission may promulgate rules prescribing:

(a) In the case of S corporations, partnerships, trusts or estates, a method of attributing a credit under this chapter to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate; and

(b) The method by which the carryover of credits and the duty to recapture credits shall survive and be transferred in the event of reorganizations, mergers or liquidations.

(2) In the case of a unitary group of corporations filing a combined report under subsection (t) of section 63-3027, Idaho Code, credits against income tax provided by sections 63-4403, 63-4404 and 63-4405, Idaho Code, earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the limitation in subsection (3) of this section, instead of carried over. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member or members who earned the credit are no longer included in the combined group.

(3) The total of all credits allowed by this chapter, together with any credits carried forward under subsection (4) of this section shall not exceed the amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter and the Idaho income tax act.

(4) If the credits exceed the limitation under subsection (3) of this section, the excess amount may be carried forward for a period that does not exceed the next fourteen (14) taxable years in the case of credits allowed by sections 63-4403 and 63-4404, Idaho Code.

63-4704. RECAPTURE. (1) In the event that any person to whom a tax credit allowed by this chapter fails to meet the tax incentive criteria, the full amount of the credit shall be subject to recapture by the commission as provided by rule of the commission.

(2) Any amount subject to recapture is a deficiency in tax for the amount of the credit in the taxable year in which the disqualification first occurs and may be enforced and collected in the manner provided by the Idaho income tax act, provided however, that in lieu of the provisions of section 63-3068(a), Idaho Code, the period of time within which the commission may issue a notice under section 63-3045, Idaho Code, in regard to an amount subject to recapture shall be the later of five (5) years after the end of the taxable year in which the project period ends or three (3) years after the end of the taxable year in which any amounts carried forward under section 63-4703, Idaho Code, expire.

1 63-4705. ADMINISTRATION. The commission shall enforce the provisions
2 of this chapter and may prescribe, adopt and enforce reasonable rules
3 relating to the administration and enforcement of those provisions,
4 including the promulgation of rules relating to information necessary
5 to certify that the incentive criteria have been or will be met. For the
6 purpose of carrying out its duties to enforce or administer the provisions
7 of this chapter, the commission shall have the powers and duties provided
8 by sections 63-3038, 63-3039, 63-3042 through 63-3068, 63-3071 and 63-3074
9 through 63-3078, Idaho Code.

10 SECTION 4. An emergency existing therefor, which emergency is hereby
11 declared to exist, this act shall be in full force and effect on and after
12 its passage and approval, and retroactively to January 1, 2010, and shall be
13 null, void and of no force and effect on and after January 1, 2015.